

**RECEIVED  
CENTRAL FAX CENTER****SEP 30 2006**

GLB-002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****In re Application of:****George L. BUTZER et al.****Serial No.: 10/791,331****Filed: Mar. 2, 2004****For: Traffic Control Device Transmitter,  
Receiver, Relay and Display System****Art Unit: 2612****Examiner: John A. TWEEL****Tel: (571) 272-2969****Notice of Abandonment Mailed:****June 27, 2006****Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450****CERTIFICATE OF TRANSMISSION (37 CFR § 1.8)**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.

on Sept. 30, 2006

Date

Dane C. Butzer

By: Dane Butzer

**SECOND RE-TRANSMISSION OF PETITION**

Applicants attempted to re-transmit the attached petition on Aug. 29, 2006, to the Office of Petitions at (571) 273-0025. Applicants received confirmation from Applicant Dane C. Butzer's facsimile service that the facsimile transmission was successful. A copy of this confirmation is attached.

However, when Applicant Dane C. Butzer check PAIR on Sept. 28, 2006, to see if the petition had been entered into the file, the petition did not appear. Applicant Dane C. Butzer then contacted the Office of Petitions via telephone to see if the petition had been received. Applicant Dane C. Butzer was informed that the petition did not show up in the Office's systems. Applicant

GLB-002

Dane C. Butzer was further informed that the petition should have been sent to the USPTO's main facsimile number, (571) 273-8300.

Applicant Dane C. Butzer is therefore once again retransmitting the petition, this time to the USPTO's main facsimile number. This second re-transmission includes the original petition and accompanying documents, the re-transmission of the petition, and the confirmation that the re-transmission was sent to the Office at (571) 273-0025.

Applicants are aware that this second re-transmission is being sent a month after the two month date from the Notice of Abandonment. Under 37 C.F.R. 1.181(f), this petition "*may be dismissed as untimely*" (emphasis added). However, Applicant Dane C. Butzer has repeatedly attempted to file the proper papers and has been repeatedly thwarted by unusual circumstances. These circumstances include the following:

- (1) Original issue fee mailed on time, but never received.
- (2) Original petition sent on time to a facsimile number identified in USPTO papers accompanying the Notice of Abandonment; however, this was the wrong number.
- (3) Re-transmission of petition sent one day late to a facsimile number for the Office of Petitions both identified on the USPTO website and verified by a phone call to the Office; however, this again was (apparently) a wrong number. Nonetheless, the petition was actually received by a facsimile machine at a facsimile number identified by the USPTO website and the Office of Petitions as actually being a USPTO facsimile number.

In view of these unusual circumstances, Applicants respectfully request that the accompanying petition be approved.

GLB-002

If both the transmission and the re-transmission are received by the Office, Applicants respectfully request that only one of the payments of the issue fee in this case be processed.

Applicants' undersigned attorney can be reached at (614) 205-3241. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,



Dane C. Butzer  
Reg. No. 43,521

Dated: September 30, 2006

Dane C. Butzer  
870 High St. Ste. 104  
Worthington, OH 43085

Page 1 of 1

Subj: Successful transmission to 15712730025. Re:  
Date: 8/29/2006 12:44:53 P.M. Eastern Standard Time  
From: [send@mail.efax.com](mailto:send@mail.efax.com)  
To: [dbutzer@aol.com](mailto:dbutzer@aol.com)

Dear Dane Butzer,

Re:

The 13 page fax you sent through eFax.com to 15712730025 was successfully transmitted at 2006-08-29 16:44:29 (GMT).

The length of transmission was 287 seconds.

The receiving machine's fax ID: 7033086916.

If you need additional assistance, please visit our online help center at <http://www.efax.com/help/>. Thank you for using the eFax service.

Best Regards,  
eFax.com

Customer Service  
Help: <http://www.efax.com/help/>  
Tel: 323-817-3205 (US) or 0870 711 2211 (UK)  
Email: [help@mail.efax.com](mailto:help@mail.efax.com)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

George L. BUTZER et al.

Serial No.: 10/791,331

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For: Traffic Control Device Transmitter,  
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Art Unit: 2612

Examiner: John A. TWEEL

Tel: (571) 272-2969

Notice of Abandonment Mailed:

June 27, 2006

Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

<b>CERTIFICATE OF TRANSMISSION (37 CFR § 1.8)</b>	
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-8300.	
on <u>Aug. 29, 2006</u>	<u>Dane C. Butzer</u>
Date	By: Dane Butzer

**RE-TRANSMISSION OF PETITION**

Applicants attempted to facsimile transmit the attached petition on Aug. 28, 2006, to the USPTO. Applicants attempted to send this petition to the facsimile number identified on the "Attachment to Notice of Abandonment" that accompanied the Notice of Abandonment, namely (703) 872-9306. A copy of this attachment is attached hereto. That facsimile number is no longer in service.

After close of business, Applicants were sent electronic notice that the facsimile transmission had failed. A copy of this notice also is attached. (Applicants use the e-fax service, and the notice was sent via e-mail to Applicants at 6:06:44 pm EST).

GLB-002

Applicants contacted the Office of Publication today to get the correct facsimile number, namely (571) 273-0025. Applicants are re-sending the petition today to this correct number.

Applicants are aware that this re-transmission is being sent the day after the Monday after the two month date from the Notice of Abandonment. Under 37 C.F.R. 1.181(f), this petition "may be dismissed as untimely" (emphasis added). However, Applicants earnestly solicit that the petition not be dismissed because the briefness of the one day delay and because this delay resulted from Applicants' reliance on information provided in the "Attachment to Notice of Abandonment."

Applicants' undersigned attorney can be reached at (614) 205-3241. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,



Dane C. Butzer  
Reg. No. 43,521

Dated: August 29, 2006

Dane C. Butzer  
870 High St. Ste. 104  
Worthington, OH 43085

## Attachment to Notice of Abandonment

**For questions concerning the notice contact  
Office of Patent Publication  
Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### Respond to the Notice of Abandonment by one of the following:

**1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing, 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

**2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and reissue the Office action. The showing required establishing non receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

**3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

Page 1 of 1

Subj: Unsuccessful fax transmission to 17038729306. Re:  
Date: 8/28/2006 6:06:44 P.M. Eastern Standard Time  
From: [send@mail.efax.com](mailto:send@mail.efax.com)  
To: [dbutzer@aol.com](mailto:dbutzer@aol.com)

Dear Dane Butzer,

Re:

The fax you recently sent through eFax.com to 17038729306 did not go through because there was a communication error.

If you need additional assistance, please visit our online help center at <http://www.efax.com/help/>.

Thank you for using the eFax service.

Best Regards,  
eFax.com

Customer Service  
Online Help: <http://www.efax.com/help/>  
Tel: 323-817-3205 (US) or 0870 711 2211 (UK)  
Email: [help@mail.efax.com](mailto:help@mail.efax.com)



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SEP 30 2006

PTO/SB/21 (06-03)

Approved for use through 08/30/2003, OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10791,331
	Filing Date	Mar. 2, 2004
	First Named Inventor	George L. RUTZGER
	Art Unit	2812
	Examiner Name	John A. WEEI
	Attorney Docket Number	CLB-002
Total Number of Pages in This Submission		9

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> Alter Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): copy of Notice of Allowance, copies of postcard receipt and checks, copy of Fee(s) Transmitted w/ cert. of trans., re-payment of issue fee via credit card
Remarks Fax No. (703) 872-9306		

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Dane C. Butzer Reg. No. 43,521
Signature	<i>Dane C. Butzer</i>
Date	Aug. 28, 2006

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Dane C. Butzer	Date	Aug. 28, 2006
Signature	<i>Dane C. Butzer</i>		

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO in process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Examiner: John A. TWEEL

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P.O. Box 1450  
Alexandria, VA 22313-1450**CERTIFICATE OF TRANSMISSION (37 CFR § 1.8)**I hereby certify that this correspondence is being facsimile  
transmitted to the United States Patent and Trademark  
Office, Fax No. (571) 273-8300.

on Aug. 28, 2006

Date

By: Dane Butzer

**PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT  
BASED ON EVIDENCE THAT ISSUE FEE WAS TIMELY MAILED OR FILED**

This paper is a petition under 37 C.F.R. § 1.181(a) requesting withdrawal of a holding of abandonment in a Notice of Abandonment mailed by the Office on June 27, 2006. This paper is being timely filed on the Monday after the two month date from the mailing of the Notice of Abandonment, which fell on a Sunday.

A Notice of Allowance and Fee(s) Due was mailed by the Office in this case on Feb. 6, 2006. Applicants are filing this Petition with appropriate evidence indicating that payment of the issue fee was mailed to the Office on April 27, 2006. That issue fee apparently was never received by the Office, so Applicants are also filing a new payment of the issue fee herewith.

GLB-002

NOTICE OF ALLOWANCE AND FEE(S) DUE:

A copy of the Notice of Allowance and Fee(s) Due is attached hereto for the sake of convenience. The mailing date of the Notice was Feb. 6, 2006.

FIRST PAYMENT OF ISSUE FEE:

The deadline for paying the issue fee was three months after the mailing date of the Notice of Allowance and Fee(s) Due, namely May 6, 2006. Applicants timely mailed payment of the issue to the Office on April 27, 2006.

The payment was in the form of two checks, each for \$500, made out to "Director of USPTO." Check no. 3192 was by Applicant Dane Butzer, and check no. 6368 was by Applicant George Butzer. Neither check has been cashed. The payment was also accompanied by a postcard receipt, a copy of which also is attached. Applicants never received the postcard receipt back from the Office.

Applicants mailed the payment using the Certificate of Mailing provided on the Fee(s) Transmittal form. A copy of this form showing the completed certificate is attached. Applicant Dane Butzer, whose signature appears at the end of this paper, was the person who completed the certificate and who mailed the payment. Thus, Applicant Dane Butzer has a direct personal knowledge basis for declaring that the issue fee was mailed in a timely fashion. See 37 C.F.R. § 1.8(b)(3).

GLB-002

Applicants submit that the foregoing is legally sufficient to establish that the issue fee was in fact paid on April 27, 2006. Applicants surmise that the payment was "lost in the mail," although this is conjecture on Applicants' part.

NOTICE OF ABANDONMENT:

The Office mailed a Notice of Abandonment to Applicants on June 27, 2006.

TIMELINESS OF PETITION:

This filing is timely as it is being filed on the Monday following two months after mailing of the Notice of Abandonment. In particular, the two month date after the Notice of Abandonment was Sunday, August 27, 2006, and this Petition and accompanying papers are being facsimile transmitted on Monday, August 28, 2006. See. 37 C.F.R. 1.137(e) & 1.7.

DECLARATION:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

GLB-002

REPAYMENT OF ISSUE FEE:

Applicants are re-paying the issue fee with this Petition, this time by credit card payment.

Because Applicants are paying the issue fee again, Applicants respectfully request that the Office NOT cash Applicants' two checks in the event that those checks are received by the Office after this re-payment has been accepted by the Office. Alternatively, if the checks are cashed by the Office after the re-payment has been accepted, then Applicants respectfully request refund of one of the two payments of the issue fee.

CLOSING:

This Petition is accompanied by sufficient evidence to support that payment of the issue fee in this case was timely mailed. Accordingly, withdrawal of the abandonment of this case is earnestly solicited. In addition, this Petition is accompanied by re-payment of the issue fee. Accordingly, issuance of a patent in this case is earnestly solicited.

Applicants' undersigned attorney can be reached at (614) 205-3241. All correspondence should continue to be directed to the address indicated below.

Respectfully submitted,



Dane C. Butzer  
Reg. No. 43,521

Dated: August 28, 2006

Dane C. Butzer  
870 High St. Ste. 104  
Worthington, OH 43085



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

## NOTICE OF ALLOWANCE AND FEE(S) DUE

26654 7590 02/06/2006

DANE C. BUTZER  
870 HIGH STREET, SUITE 104  
WORTHINGTON, OH 43085

EXAMINER

TWISS, JR. JOHN ALEXANDER

ART UNIT

PAPER NUMBER

1636

DATE MAILED: 02/06/2006

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,131	03/02/2004	George L. Butzer	GLB-002	1846

TITLE OF INVENTION: TRAFFIC CONTROL DEVICE TRANSMITTER, RECEIVER, RELAY AND DISPLAY SYSTEM

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$1000	05/08/2006

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

